

AMENDED IN ASSEMBLY APRIL 15, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 705

Introduced by Assembly Member Aroner

February 24, 1999

An act to add Chapter 30 (commencing with Section 22935) to Division 8 of the Business and Professions Code, relating to transport escort services.

LEGISLATIVE COUNSEL'S DIGEST

AB 705, as amended, Aroner. Transport escort services: registration.

Existing law does not provide for the registration of transport escort services, as defined.

This bill would provide for the regulation of transport escort services. Specifically, it would require a transport escort service, defined as any person, partnership, *association*, or corporation that accepts financial compensation or other consideration to accompany or transport minors who are residents of this state to any residential facility or institution located outside this state, to file a verified ~~certificate of application~~ *for registration* with the Secretary of State. The bill would set forth certain fee and bonding requirements for ~~registrants~~ *applicants*. Fees would be deposited into the Secretary of State's Business Fees Fund.

Certain of the regulatory requirements, *such as specified the inclusion of a notarized statement in the application for registration containing specified information*, would be

subject *the applicant* to a penalty of perjury, which is a crime. A violation of the bill would also be a misdemeanor. By enlarging the scope of an existing crime and creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 30 (commencing with Section
2 22935) is added to Division 8 of the Business and
3 Professions Code, to read:

4

5 CHAPTER 30. TRANSPORT ESCORT SERVICES

6

7 22935. It is the intent of the Legislature to protect the
8 well-being of California children by regulating private
9 individuals and companies that transport or accompany
10 minors to out-of-state facilities or institutions.

11 22936. As used in this chapter:

12 (a) "Transport escort service" means any person,
13 partnership, or corporation that accepts financial
14 compensation or other consideration to accompany or
15 transport minors who are residents of California to any
16 residential facility or institution located outside the state.

17 (b) "Minor" means any person under the age of 18
18 years.

19 ~~22937. (a) Any person who operates a transport~~
20 ~~escort service in this state shall file a verified certificate~~
21 ~~of registration with the Secretary of State, and shall~~
22 ~~maintain a current copy of the certificate of registration.~~

23 22937. (a) Any transport escort service that operates
24 in this state shall file a verified application for registration
25 with the Secretary of State. Subject to the results of the



1 *criminal and child abuse check required by Section 22938,*
2 *the Secretary of State shall issue a certificate of*
3 *registration upon receipt of an application on a form*
4 *prescribed by the Secretary of State and the application*
5 *fee required by Section 22939. Any transport escort*
6 *service shall maintain a current certificate of registration.*

7 (b) This chapter shall not apply to the following:

8 (1) ~~Any~~ *The transport of minors by any governmental*
9 *agency or employee.*

10 (2) The transport of minors under the jurisdiction of
11 the juvenile court.

12 ~~22938. (a) The certificate of registration of a~~
13 ~~registrant who is a private individual shall contain the~~
14 ~~following information:~~

15 (3) *The transport of minors by family members or*
16 *relatives.*

17 ~~22938. (a) The application of a private individual~~
18 ~~shall contain the following information:~~

19 (1) The name, address, and telephone number of the
20 registrant.

21 ~~(2) A notarized statement made under penalty of~~
22 ~~perjury that the registrant is 18 years of age or older; the~~
23 ~~registrant has not been convicted of a felony or any crime~~
24 ~~involving child abuse; the registrant has been a resident~~
25 ~~of this state for a period of one year immediately~~
26 ~~preceding the filing of the certificate; and an affirmation~~
27 ~~that the registrant will perform the duties of a transport~~
28 ~~escort service in compliance with the provisions of law~~
29 ~~governing those services in this state. applicant.~~

30 (2) *A notarized statement made under penalty of*
31 *perjury that the applicant is 18 years of age or older; the*
32 *applicant has been a resident of this state for a period of*
33 *one year immediately preceding the filing of the*
34 *certificate; and an affirmation that the applicant will*
35 *perform the duties of a transport service in compliance*
36 *with the provisions of law governing those services in this*
37 *state.*

38 (3) Disclosure of every instance in which the
39 ~~registrant~~ *applicant* transported or accompanied a minor

1 to a facility or institution outside the state in the
2 preceding year, including for each separate occasion:

3 (A) The minor's name, date of birth, and address.

4 (B) The date and time that the registrant transported
5 or accompanied the minor.

6 (C) The name and address of the facility to which the
7 minor was transported or accompanied, and the name
8 and telephone number of the facility administrator.

9 ~~(b) The certificate of registration of a registrant who~~
10 ~~is a partnership or corporation shall contain the following~~
11 ~~information:~~

12 (4) *Proof that the applicant has a valid California*
13 *driver's license and adequate automobile insurance.*

14 (5) *Proof that the State Department of Social Services*
15 *has checked the Child Abuse Registry pursuant to*
16 *paragraph (3) of subdivision (b) of Section 11170 of the*
17 *Penal Code, and investigated any report concerning the*
18 *applicant. If the State Department of Social Services finds*
19 *that any child abuse report is substantiated, it shall inform*
20 *the Secretary of State, who shall decline to issue a*
21 *certificate of registration.*

22 (6) *Proof that the State Department of Social Services*
23 *has secured from an appropriate law enforcement agency*
24 *a criminal record of the applicant. If the State*
25 *Department of Social Services determines that the*
26 *applicant has been convicted of a crime other than a*
27 *minor traffic violation, it shall inform the Secretary of*
28 *State, who shall decline to issue a certificate of*
29 *registration.*

30 (7) *Proof that the applicant has obtained a bond of ten*
31 *thousand dollars (\$10,000) that is executed by an*
32 *admitted surety insurer and conditioned upon*
33 *compliance with this chapter and all laws governing the*
34 *conduct of transport escort services in this state. The bond*
35 *required by this section shall be in favor of, and payable*
36 *to, the people of the State of California and shall be for the*
37 *benefit of any person damaged by an unlawful act by any*
38 *transport escort service, or any employee or agent*
39 *thereof, while acting in the capacity of that service.*

1 (b) *The application of a partnership, association, or*
2 *corporation shall contain the following information:*

3 (1) The names, addresses, and telephone numbers of
4 the general partners, officers, *contractors*, and
5 employees.

6 (2) A notarized statement made *by the applicant*
7 under penalty of perjury that the general partners,
8 *associates*, officers, employees, and any other individual
9 involved in the transport of minors are at least 18 years of
10 age and have not been convicted of a felony or any crime
11 involving child abuse; the partnership, *association*, or
12 corporation has been organized and existing continuously
13 for a period of one year immediately preceding the filing
14 of the certificate, or that a responsible managing
15 employee, partner, or officer has been previously
16 registered under this division, and the partnership,
17 *association*, or corporation will perform the duties of a
18 transport escort service in compliance with the provisions
19 of law governing those services in this state.

20 (3) Disclosure of every instance in which the
21 partnership, *association*, or corporation transported a
22 minor to a residential facility or institution outside the
23 state in the preceding year, including for each separate
24 occasion:

25 (A) The minor's name, date of birth, and address.

26 (B) The date and time that the registrant transported
27 the minor.

28 (C) The name and address of the facility to which the
29 minor was transported, and the name and telephone
30 number of the facility administrator.

31 ~~22939. A registrant shall pay a fee of one hundred~~
32 ~~dollars (\$100) to the Secretary of State to be deposited~~
33 ~~into the Business Fees Fund at the time of filing the~~
34 ~~certificate of registration.~~

35 ~~22940. (a) A certificate of registration shall be~~
36 ~~accompanied by a bond of ten thousand dollars (\$10,000)~~
37 ~~which is executed by an admitted surety insurer and~~
38 ~~conditioned upon compliance with this chapter and all~~
39 ~~laws governing the conduct of transport escort services in~~

~~1 this state. The total aggregate liability on the bond is
2 limited to ten thousand dollars (\$10,000).~~

~~3 (b) The bond required by this section shall be in favor
4 of, and payable to, the people of the State of California
5 and shall be for the benefit of any person damaged by an
6 unlawful act by any transport escort service, or any
7 employee or agent thereof, while acting in the capacity
8 of that service.~~

~~9 (c) The Secretary of State shall enforce the provisions
10 of this chapter that govern the filing and maintenance of
11 bonds and deposits in lieu of bonds, and may collect a
12 filing fee to cover the cost of filing a bond or the deposit
13 in lieu of a bond.~~

*14 (4) Proof that the general partners, associates, officers,
15 employees, and any other individuals involved in the
16 transport of minors have valid California driver's licenses
17 and adequate automobile insurance.*

*18 (5) Proof that the Department of Social Services has
19 checked the Child Abuse Registry pursuant to paragraph
20 (3) of subdivision (b) of Section 11170 of the Penal Code,
21 and investigated any report concerning the general
22 partners, associates, officers, employees, and any other
23 individuals involved in the transport of minors. If the
24 Department of Social Services finds that any child abuse
25 report is substantiated, it shall inform the Secretary of
26 State, who shall decline to issue a certificate of
27 registration.*

*28 (6) Proof that the State Department of Social Services
29 has secured from an appropriate law enforcement agency
30 a criminal record of the general partners, associates,
31 officers, employees, and any other individuals involved in
32 the transport of minors. If the State Department of Social
33 Services determines that the applicant, or anyone
34 employed by the applicant, has been convicted of a crime
35 other than a minor traffic violation, it shall inform the
36 Secretary of State, who shall decline to issue a certificate
37 of registration.*

*38 (7) Proof that the applicant has obtained a bond of ten
39 thousand dollars (\$10,000) that is executed by an
40 admitted surety insurer and conditioned upon*

1 compliance with this chapter and all laws governing the
2 conduct of transport escort services in this state. The bond
3 required by this section shall be in favor of, and payable
4 to, the people of the State of California and shall be for the
5 benefit of any person damaged by an unlawful act by any
6 transport escort service, or any employee or agent
7 thereof, while acting in the capacity of that service.

8 22939. An applicant shall pay a fee of one hundred
9 dollars (\$100) to the Secretary of State to be deposited
10 into the Business Fees Fund at the time of filing the
11 application.

12 22941. A certificate of registration shall be effective
13 ~~for a period of one year. Thereafter, a registrant shall file~~
14 ~~a new certificate and pay the required fee for a period of~~
15 ~~one year. Thereafter, an applicant shall file a new~~
16 ~~application and pay the required fee.~~

17 22942. The Secretary of State shall maintain a register
18 of transport escort services and shall assign a number to
19 each service. Upon renewal of a certificate of registration,
20 the same number shall be assigned, provided there is no
21 lapse in the period of registration. The register and
22 certificates of registration shall be considered public
23 documents, except that any information identifying
24 specific minors shall be considered confidential and
25 ~~redacted from any documents released to any member of~~
26 ~~the public.~~ shall be disclosed only to the Attorney General
27 for the purposes of investigating a complaint or pursuant
28 to court order upon a showing of good cause.

29 22943. A registrant shall be responsible at all times for
30 the good conduct of his or her employees acting within
31 the course or scope of their employment, and any person
32 acting as an independent contractor within the course or
33 scope of the agency relationship with the registrant.

34 22944. (a) No transport escort service shall operate
35 in this state without being registered pursuant to this
36 division.

37 (b) Transport escort services shall not transport or
38 accompany minors outside the State of California without
39 permitting the minor's parent or legal guardian to
40 examine a current copy of the certificate of registration,

1 and obtaining the written permission of the minor's
2 parent or legal guardian.

3 (c) A transport escort service shall explain to any
4 minor it intends to transport, in a manner appropriate to
5 the minor's age and capacity to understand and in the
6 presence of the minor's parent or legal guardian, the
7 nature and purpose of a transport escort service; the
8 name and location of the facility or institution to which it
9 will transport or accompany the minor; and the means by
10 which the minor will be transported. The transport escort
11 service shall not misrepresent its identity or purpose to a
12 minor or his or her parents or legal guardians.

13 (d) Transport escort services shall not coerce or
14 intimidate minors, nor shall they use physical force,
15 mechanical or chemical restraints, or any means of
16 interfering with the minor's ability to see, hear, or move
17 freely.

18 ~~22945. (a) Any person who recovers damages in any~~
19 ~~proceeding or action for injuries caused by the actions of~~
20 ~~a transport escort service acting in that capacity which~~
21 ~~violated the provisions of law governing escort services in~~
22 ~~this state may recover the amount of damages from the~~
23 ~~bond required by Section 22940.~~

24 ~~(b) Whenever there has been a recovery against a~~
25 ~~bond under subdivision (a), the registrant shall file a new~~
26 ~~bond within 30 days to reinstate the bond to the amount~~
27 ~~required by Section 22940. If the registrant does not file~~
28 ~~the bond within 30 days, the certificate of registration~~
29 ~~shall be revoked and the remainder of the bond forfeited~~
30 ~~for deposit into the General Fund.~~

31 ~~22946.~~

32 22945. (a) Any violation of the laws governing
33 transport escort services may result in revocation or
34 suspension of the *transport escort* service's certificate of
35 registration.

36 (b) The Attorney General shall investigate any
37 complaint that a transport escort service violated this
38 chapter or any other law governing transport escort
39 services.

(c) If the Attorney General determines that cause may exist for the revocation or suspension of the certificate of registration, he or she shall set the matter for hearing and give notice to the registrant. The hearing shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the decision of the administrative law judge shall be final. For the purposes of these provisions, the Attorney General shall be deemed to be the agency.

(d) If, after the hearing, the administrative law judge directs that the registrant's certificate be suspended or revoked, the Attorney General shall inform the Secretary of State, who shall forthwith revoke or suspend the certificate. ~~If the certificate is revoked, the bond or cash deposited required by Section 22940 shall be forfeited for deposit into the General Fund subject to the right of a person to recover against the bond or cash.~~ *certificate. If the registrant's certificate is suspended, the administrative law judge shall specify the conditions under which the certificate may be reinstated.*

(e) Suspension or revocation of a registrant's certification shall not preclude the remedies available in Section ~~22947~~ 22946.

~~22947.~~

22946. (a) A person claiming to be aggrieved by a violation of this chapter by a transport escort service may bring a civil action for injunctive relief or damages, or both. If the court finds that the defendant has violated a provision of this chapter, it shall award actual damages and reasonable attorney's fees and costs.

(b) *Any person who recovers damages in any proceeding or action for injuries caused by the actions of a transport escort service acting in that capacity that violated the provisions of law governing transport escort services in this state may recover the amount of damages from the bond required by paragraph (7) of subdivision (a) or (b) of Section 22938.*

(c) In addition to subdivision (a), a violation of this chapter is a misdemeanor punishable by a fine of not less

1 than two thousand dollars (\$2,000) or more than ten
2 thousand dollars (\$10,000), as to each person with respect
3 to whom a violation occurs, or imprisonment in a county
4 jail for not more than one year.

5 SEC. 2. No reimbursement is required by this act
6 pursuant to Section 6 of Article XIII B of the California
7 Constitution because the only costs that may be incurred
8 by a local agency or school district will be incurred
9 because this act creates a new crime or infraction,
10 eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section
12 17556 of the Government Code, or changes the definition
13 of a crime within the meaning of Section 6 of Article
14 XIII B of the California Constitution.

